



CITY CLERK DEPT.

05 AUG -4 AM 8:11

**OFFICE OF THE CITY ATTORNEY  
M E M O R A N D U M**

**CONFIDENTIAL ATTORNEY-CLIENT AND/OR ATTORNEY WORK PRODUCT COMMUNICATION  
NOT INTENDED FOR PUBLIC DISSEMINATION**

TO: Richarda Duffy Momsen  
City Clerk

FROM: Jorge Villegas  
Assistant City Attorney

A handwritten signature in dark ink, appearing to be "JV", is written next to the name "Jorge Villegas".

SUBJECT: Amendment to the minutes of July 12, 2005

DATE: August 3, 2005

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As the minutes for the City Council meeting of July 12, 2005 have already been approved, listed below please note a slight addition to the language of the minutes that should be included for that meeting, under Item 18:

*"The term "Continuing Directors," set forth in Section 14 of the Franchise Ordinance, shall have the same meaning as set forth in EPE's Indenture of Mortgage dated February 1, 1996."*

Your prompt attention to this matter is appreciated. As always, thank you for your assistance in this matter.

JOHN F. COOK  
MAYOR

JOYCE WILSON  
CITY MANAGER



CITY COUNCIL  
ANN MORGAN LILLY, DISTRICT 1  
SUSANNAH M. BYRD, DISTRICT 2  
J. ALEXANDRO LOZANO, DISTRICT 3  
MELINA CASTRO, DISTRICT 4  
PRESI ORTEGA, JR., DISTRICT 5  
EDDIE HOLGUIN JR., DISTRICT 6  
STEVE ORTEGA, DISTRICT 7  
BETO O'ROURKE, DISTRICT 8

## **REVISED**

### REGULAR COUNCIL MEETING MINUTES COUNCIL CHAMBERS JULY 12, 2005 9:00 A.M.

The City Council met in regular session at the above place and date. Meeting was called to order at 9:07 a.m. Mayor John F. Cook present and presiding and the following Council Members answered roll call: Ann Morgan Lilly, Susannah M. Byrd, Jose Alexandro Lozano, Melina Castro, Presi Ortega, Jr., Eddie Holguin, Jr., Steve Ortega and Beto O'Rourke. The invocation was given by Invocation Police Chaplain Ellen Fenter followed by the Pledge of Allegiance to the Flag of the United States of America.

#### **CALL TO THE PUBLIC – PUBLIC COMMENT**

**This time is reserved for members of the public who would like to address the City Council on items that are not on the City Council Agenda.**

A sign-up form is available on line at [https://www.elpasotexas.gov/city\\_clerk/contact\\_public.asp](https://www.elpasotexas.gov/city_clerk/contact_public.asp) for those who wish to sign up in advance of the meeting date and a sign-up form is available outside the City Council Chambers at the City Clerk table for those who wish to sign up on the day of the meeting.

Requests to speak must be received by 9 a.m. on the date of the meeting.

30 Minutes total is allotted for speakers.

Three to five minutes may be allowed for each speaker.

1. Mr. Ray E. Gilbert, Jr., commented on limiting the amount of time the public could speak on agenda items.
2. Mr. Walt Phillips presented Mardi Gras beads to the Council Members and asked them for their support to bring the 2011, 2012 or 2013 Optimist International Convention to El Paso.
3. Mr. Tedd Richardson presented newspaper print photographs to the Council Members and congratulated them on the successful elections.
4. Ms. Lisa Turner asked that the Council clarify the "Call to the Public – Public Comment" rules.

Mayor John Cook and Representative Steve Ortega commented.

Motion made by Representative Steve Ortega, seconded by Mayor Pro Tem O'Rourke and unanimously carried to **RECESS** the City Council meeting at 9:22 a.m. for the Mass Transit Department Board meeting.

Motion made by Representative Castro, seconded by Representative Lozano and unanimously carried to **RECONVENE** the City Council meeting at 9:24 a.m.

Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE, AS REVISED**, all matters listed under the Consent Agenda unless otherwise noted.  
(Items approved, postponed, or deleted pursuant to the vote on the Consent Agenda will be shown with an asterisk {\*}).

Ms. Joyce Wilson, City Manager, stated for the record that the El Paso Electric Company items would be moved to the end of the agenda, as those were substantive and require additional time for discussion.

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\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** the Minutes for Regular City Council Meeting of July 5, 2005 and Minutes for the Special City Council Meetings of July 1, 5, 6, 7, 2005.  
.....

**\*RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

.....  
THAT the City Manager be authorized to sign a First Amendment to Concession Agreement between the City of El Paso ("City") and CheckPoint Mailers, Inc. ("Concessionaire") to specify that revenue reports and Percentage Fees are due on the 15<sup>th</sup> of the month following that in which the revenues were earned.  
.....

Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **MOVE TO THE REGULAR AGENDA** the following:

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

.....  
THAT the City Manager to be authorized to sign a Trademark License Agreement by and between the City of El Paso, acting through the Department of Aviation ("Licensee"), and Texas-New Mexico Newspapers Partnership, d/b/a El Paso Times ("Licensor") for the right to use the mark IT'S AN EL PASO THING ("Licensed Mark") in connection with promoting business and tourism in the El Paso metropolitan area.  
.....

Mayor John Cook and Representatives Lozano, O'Rourke, Steve Ortega, and Presi Ortega, Jr., commented.

The following City staff members commented:

- 1. Mr. Patrick Abeln, Director of Aviation
- 2. Ms. Joyce Wilson, City Manager

Motion made by Representative O'Rourke, seconded by Representative Steve Ortega and carried to **APPROVE** the above Resolution.

AYES: Representatives Lilly, Byrd, Castro, Presi Ortega, Jr., Eddie Holguin, Jr., Steve Ortega, and O'Rourke  
NAY: Representative Lozano  
.....

**\*RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager be authorized to sign a Contract between the **CITY OF EL PASO** and **DAVID WOLKING**, to assist the El Paso Water Utilities as an Applications Support Administrator, at an hourly rate of \$26.92 for 40 hours per week. The term of the contract shall be for the period of July 20, 2005 through July 19, 2006.

**\*RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager be authorized to sign a Contract between the **CITY OF EL PASO** and **EDGARDO CHACON**, to assist the El Paso Water Utilities as a Network Administrator, at an hourly rate of \$29.18 for 40 hours per week. The term of the contract shall be for the period of July 20, 2005 through July 19, 2006.

**\*RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager be authorized to sign a Contract between the **CITY OF EL PASO** and **JOSE A. GRANILLO, JR.** to assist the El Paso Water Utilities as a GIS Administrator, at an hourly rate of \$28.06 for 40 hours per week. The term of the contract shall be for the period of July 20, 2005 through July 19, 2006.

**\*RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager be authorized to sign a Contract between the **CITY OF EL PASO** and **ARMANDO R. RENTERIA**, to assist the El Paso Water Utilities as an Information Services Manager, at an hourly rate of \$41.12, for 40 hours per week. The term of the contract shall be for the period of July 20, 2005 through July 19, 2006.

**\*RESOLUTION**

**WHEREAS**, the City of El Paso is a taxing entity in the El Paso Central Appraisal District, and

**WHEREAS**, the City of El Paso as a taxing entity is entitled to appoint two members of the El Paso Central Appraisal District Board; and

**WHEREAS**, the City Council desires to appoint two directors to the Board of Directors to replace currently seated City appointees and fill unexpired terms;

**NOW THEREFORE**, be it resolved by the City Council of the City of El Paso:

That Representative Ann Morgan Lilly and Representative Presi Ortega, Jr. are appointed to the Board of Directors of the El Paso Central Appraisal District Board to be seated immediately and fill unexpired terms commencing from January 1, 2004 through December 31, 2005.

\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** the request for the following names to be placed on the Reinstatement list in accordance with Article VI, Section 6.10-10, of the Civil Service Charter Provisions:

- A. Prise, Natalie M. – Community Development Grants Administrator
- B. Cardenas, Hector – Stores Clerk I

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\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** the appointment of Mark Briggs as a part-time prosecutor effective July 12, 2005, and that the professional legal services engagement letter and contract between the City of El Paso and Mark Briggs dated January 25, 2005 is terminated effective immediately.

.....  
\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** the appointment of Marina Chavez as a part-time prosecutor effective July 12, 2005, and that the professional legal services engagement letter and contract between the City of El Paso and Marina Chavez dated December 13, 2004 is terminated effective immediately.

.....  
\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** the appointment of Chris Gad as a part-time prosecutor effective July 12, 2005, and that the professional legal services engagement letter and contract between the City of El Paso and Chris Gad dated December 13, 2004 is terminated effective immediately.

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\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPOINT** Larry C. Trejo to the Building and Standards Commission as an alternate member by Representative Presi Ortega, Jr., District 5.

.....  
Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPOINT** Paul G. Zacour to the Building and Standards Commission by Representative Presi Ortega, Jr., District 5.

.....  
\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPOINT** Gregory D. Davis to the Building and Standards Commission by Representative Presi Ortega, Jr., District 5.

.....  
\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** the following Change Order:

Contract No.:           2003-101Fertilizer  
                                  Helena Chemical Company  
                                  Mesquite, New Mexico

The Parks & Recreation Department & Purchasing Department request approval of change order to Helena Chemical Company, for Fertilizer for an increase amount of \$9,821.55 - PO # 2005000429.

(Item #1 increase of \$8,125.80 & Item # 2 increase of \$1,695.75 for a total of \$9,821.55)

Department:           Parks & Recreation Department  
Funds Available:       51010262-503113-01101  
Funding Source:       Parks & Recreation General Operating Funds

Total Change Order: \$9,821.55

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\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **AWARD** Bid Solicitation No. 2005-202R Stress Management for Firefighters

Award to: Center for Employee Assistance Program  
El Paso, TX  
Amount: \$65,830.00 (estimated yearly)

Department: Fire  
Funds available: 22010090-01101-502111  
Funding source: Operating Funds, Healthcare Provider Service  
Total award: \$197,490.00 (estimated)

Fire Department and Purchasing Department recommends award as indicated. Center for Employee Assistance, provided the Best Value Procurement proposal meeting specifications.

This is a thirty-six (36) month contract with no option to renew.

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Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **MOVE TO THE REGULAR AGENDA** Request for Proposal Solicitation No. 2005-219R Golf Course Management Firm

Mr. Patrick Abeln, Director of Aviation.

Representatives Lozano and Presi Ortega, Jr. commented.

Ms. Lisa Turner commented.

Mr. Toby Davis, Vice-President of Kemper Sports Management, Inc., commented.

Motion made by Representative Lozano, seconded by Representative Presi Ortega, Jr. and unanimously carried to **AWARD** Request for Proposal Solicitation No. 2005-219R Golf Course Management Firm

Award to: Kemper Sports Management, Inc.  
Northbrook, IL  
Amount: \$12,500.00 (Fixed Monthly Fee) plus Incentive Fee:  
5% of gross annual revenues exceeding \$3,000,000.00

Department: Aviation  
Funds available: Revenue Contract  
Funding source: Revenue Contract  
Total award: \$450,000.00 Estimated (Fixed Fee) plus Incentive Fee:  
5% of gross annual revenues exceeding \$3,000,000.00

The Review Committee recommends award as indicated. Kemper Sports Management, Inc. submitted the highest ranked and best proposal to meet the needs of the City.

This contract provides for a Golf Course Management Firm. This is a fee-based management, revenue-generating contract for the El Paso International Airport. When the Golf Course opens for use, the compensation for this contract shall be a Fixed Monthly Fee of \$12,500.00, in addition to an Incentive Fee of 5% of gross annual revenues exceeding \$3,000,000.00.

The term of the contract is three (3) years with the City's option to extend for one additional three (3) years period.

Furthermore, it is requested that staff be authorized to negotiate, the City Attorney's Office to review and that the City Manager execute any additional documents as necessary. Additionally, authorize the City Manager to execute budget transfers as necessary during the contract.

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 \*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **AWARD** Bid Solicitation No. 2005-187 Glass Beads

Award to: Potters Industries, Inc.  
 Valley Forge, Pennsylvania  
 Item (s): #1  
 Amount: \$34,790.00 (estimated annually)  
 Department: Street  
 Funds available: 32010287-503122-01101  
 Funding source: Street Operating General Fund  
 Total award: \$69,580.00 (estimated)

The Street and Purchasing Departments recommend award as indicated to the lowest responsive offer meeting specifications, from responsible parties. No options offered.

This is a Requirements Type Contract with an initial term of Twenty-Four (24) months.

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 \*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** budget transfer BT2005-1242 BUILDING & PLANNING SERVICES AND PARKS & RECREATION

Building & Planning Services and Parks & Recreation propose to appropriate \$25,000 from McKelligon Canyon Park User Fee Fund Balance to the 2000 QOL McKelligon Canyon project to fund an alternate for construction of a scene shop building and cabinetry for the concession area. Money is available in Fund Balance.

Increase	\$25,000	to	51010280/P50020616306/407002	Est Rev
Increase	\$25,000	to	51010280/P50020616306/508027	Construction
Decrease	\$25,000	from	51010280/P50020616306/508027	Construction
Increase	\$25,000	to	51010280/PPW004604616306/508027	Construction

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 \*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** budget transfer BT2005-1243 BUILDING & PLANNING SERVICES AND PARKS & RECREATION

Building & Planning Services and Parks & Recreation propose to appropriate \$40,000 from Park User Fees General Administration Fund Balance to the 2000 QOL Memorial Pool project to fund construction of a canopy/slab at the Memorial Reserve Area. Money is available in fund balance.

Increase	\$40,000	to	51010279/P50020116301/407002	Est Rev
Increase	\$40,000	to	51010279/PPW0046026YR216301/508027	Construction

\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** budget transfer BT2005-1256 MUSEUM OF ART

To appropriate funds to pay for training/instruction contracts due to the increased number of the museum's programs offered to teachers and art classes.

Increase	\$5,546	to	54154001/G54000707402/502214	Train/InstCntr
Increase	\$5,546	to	54154001/G54000707402/404302	InstructionFee

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\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** budget transfer BT2005-1261 OFFICE OF MANAGEMENT & BUDGET

To appropriate funding for the purchase of document scanning equipment.

Increase	\$43,500	to	04010210/P540010CTY27503/407000	InterestRev
Increase	\$43,500	to	04012010/P540010CTY27503/508010	DataProcEq

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\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** budget transfer BT2005-1298 COMMUNITY AND HUMAN DEVELOPMENT

This will increase the appropriation for the Bill Collections Contract with AmeriNational Community Services, Inc. An unanticipated greater number of new loan accounts have been set up and this will pay servicing fees for the remainder of this FY.

Increase	\$20,000	to	71150039/G710RLFHOME09914/406040	PgrmIncome
Increase	\$20,000	to	71150039/G710RLFHOME09914/502201	BillCollectCntr

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\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** the request of El Buen Pastor Church to use amplification (2 microphones, 2 speakers and 2 amplifiers) at Borderland Park – 6327 Modesta on July 15, 2005 from 6:00 p.m. to 9:00 p.m. for an evangelization campaign. Approximately 100 persons will take part and 50 spectators are anticipated.  
PERMIT # 05-085 [Emilio Urena]

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\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **APPROVE** the request of El Paso Police Department – D.A.R.E. to hold a 10K run/5K walk on November 19, 2005 from 8:00 a.m. to 12:00 p.m. Route: Start at 4176 N Mesa to Brentwood, turn left on Brentwood to Stanton, turn right on Stanton to Kerbey, turn left on Kerbey to Rim Rd, turn left on Rim Rd to Scenic Dr, turn left on Scenic Dr to Robinson, turn left on Robinson to Stanton, turn right on Stanton to Brentwood, turn left on Brentwood to Mesa, turn right on Mesa and finish at 4176 N Mesa. Approximately 300 persons will take part and 150 spectators are anticipated. PERMIT # 05-086 [Officer Paul E Pacillas]

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Motion made by Representative Lozano, seconded by Representative Presi Ortega, Jr. and unanimously carried that the following Ordinances, having been **INTRODUCED** pursuant to Section 3.9 of the El Paso City Charter, be advertised for public hearing:

- A.** An Ordinance amending Ordinance No. 012539, an Ordinance Granting a Franchise to El Paso Electric Company and Waiving Application Process, to extend the term of the Franchise through August 31, 2005.



- B. An Ordinance authorizing the Mayor to sign a lease agreement between the City of El Paso and Alta Vista Optimist Club of El Paso, Texas, for the continued development of park and recreational services at the Alta Vista Park, located at Copia Street and Morenci Road, El Paso, Texas, for a term of ten (10) years, with renewal options.
- C. An ordinance granting a Special Privilege to Great Vibe, L.L.C. permitting the encroachment of a sidewalk café onto a portion of public right-of-way located at 209 South El Paso Street.  
(Annual Fee: \$300.00, SP-05014)
- D. An Ordinance vacating a portion of a ten-foot drainage easement located within a portion of Lot 3, Block 10, River Park West Unit Two, El Paso, El Paso County, Texas and a portion of a ten-foot drainage easement located within a portion of Lot 4, Block 10, River Park West Unit Two, El Paso, El Paso County, Texas. Applicant: Zia Homes, Inc. EV05003

**PUBLIC HEARING WILL BE HELD ON JULY 26, 2005 FOR ITEMS A -- D**

- E. An Ordinance changing the zoning of the East 60 Feet of Lots 1, 2, and 3, Block 273, Campbell Addition, El Paso, El Paso County, Texas from A-2 (Apartment) to A-O (Apartment-Office). The penalty is as provided for in Chapter 20.68 of the El Paso Municipal Code. Applicant: Barry O. and Barbara Coleman. ZON05-00040
- F. An Ordinance granting Special Permit No. ZON05-00039, to allow for a parking reduction on the property described as the East 60 feet of Lots 1, 2, and 3, Block 273, Campbell Addition, El Paso, El Paso County, Texas, pursuant to Section 20.64.175 of the El Paso Municipal Code. The penalty being as provided in Chapter 20.68 of the El Paso Municipal Code. Applicant: Barry O. and Barbara Coleman. ZON05-00039
- G. An Ordinance granting Special Permit No. ZON05-00043, to allow for a Planned Residential Development on a portion of Tract 38, Country Club Place, Southside, El Paso, El Paso County, Texas, pursuant to Section 20.12.040 (Zoning) of the El Paso Municipal Code. The penalty is as provided for in Chapter 20.68 of The El Paso Municipal Code. Applicant: Frank and Catherine Clausen. ZON05-00043
- H. An Ordinance granting Special Permit No. ZON05-00044 to satisfy parking requirements for Parcel 1, described as Lots 11-20, Block 220, Campbell Addition, El Paso, El Paso County, Texas, by allowing off-street parking on Parcel 2, Described as all of Lots 1-4 and the West 10.5 Feet of Lot 5, Block 220, Campbell Addition, pursuant to Section 20.42.040 of the El Paso Municipal Code. The penalty being as provided in Chapter 20.68 of the El Paso Municipal Code. Applicant: Horak Development III, LLC. ZON05-00044
- I. An Ordinance granting Special Permit No. ZON05-00046, to allow for a Planned Residential Development on Tract 6-C-1, Block 4, Upper Valley Surveys, El Paso, El Paso County, Texas, pursuant to Section 20.12.040 (Zoning) of the El Paso Municipal Code. The penalty is as provided for in Chapter 20.68 of the El Paso Municipal Code. Applicant: Mountain Vista Builders, Inc. ZON05-00046

**PUBLIC HEARING WILL BE HELD ON AUGUST 2, 2005 FOR ITEMS E -- I**

Public Hearings will be held as part of the regular City Council meeting which begins at approximately 9AM. All interested persons present shall have an opportunity to be heard at that time. After the public hearings, Council may also delay taking action on Ordinances, no requirement is made by Section 3.9B of the El Paso City Charter to publish any further notice. Copies of all Ordinances are available for review in the City Clerk's office, 2 Civic Center Plaza, Monday through Friday, 8AM to 5PM.

Mayor John Cook and Representative Steve Ortega commented.

The following City staff members commented:

1. Ms. Richarda Duffy Momsen, City Clerk
2. Ms. Joyce Wilson, City Manager, stated for the record that item A extends the existing El Paso Electric Company franchise agreement, which is scheduled to expire August 1, 2005. The item was placed on the agenda in the event the Council did not approve the new franchise agreement prior to the expiration date of the current agreement.

The following members of the public commented:

1. Mr. Walt Phillips
2. Mr. Ray E. Gilbert, Jr.
3. Ms. Lisa Turner

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\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **POSTPONE ONE (1) WEEK** the discussion and action on approval of Conditional "B" building permits for: Painted Dunes Unit Two, Block 1, Lot 2, Subdivision.  
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Motion made by Representative Presi Ortega, Jr., seconded by Representative Lilly and unanimously carried to **APPROVE** budget transfer BT2005-1253 BUILDING AND PLANNING SERVICES

Building and Planning Services proposes to transfer \$600,000 from the Resurfacing 2000 project to a Lane Markings project. Funding source is 2000 COs.

Decrease	\$ 99,252.37	from	31250102/PPW003100127175/508024	Testing
Decrease	\$ 60,000.00	from	31250102/PPW003100127175/508026	Inspections
Decrease	\$440,747.63	from	31250102/PPW003100127175/508027	Construction
Increase	\$600,000.00	to	31250102/PST0500327175/508027	Construction

There was no discussion.

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Motion made by Representative Lozano, seconded by Representative Byrd and unanimously carried to **APPROVE** budget transfer BT2005-1158 BUILDING AND PLANNING SERVICES

Building and Planning Services proposes to transfer \$212,213.83 from the First Drainage/Flood Control Improvements project, \$467,034.25 from the First Retrofit of Basins 2000A project, and \$671,040.51 from the First Retrofit Improvement 2000 CO project to a new project called Retrofitting of Municipal Storm Sewer Facilities Phase I. Funding sources are (FY03 CO's – Construction) & (Flood Control 2000A Issue).

Decrease	\$ 35,518.36	from	31130007/PPW002900126226/508016	CntrctlDesign
Decrease	\$ 2,287.71	from	31130007/PPW002900126226/508022	Administration
Decrease	\$ 1,932.82	from	31130007/PPW002900126226/508024	Testing
Decrease	\$ 1,487.87	from	31130007/PPW002900126226/508026	Inspections
Decrease	\$170,987.07	from	31130007/PPW002900126226/508027	Construction
Decrease	\$ 40,518.66	from	31130007/PPW003600126227/508016	CntrclDesign
Decrease	\$ 1,434.65	from	31130007/PPW003600126227/508022	Administration
Decrease	\$ 13,798.00	from	31130007/PPW003600126227/508024	Testing
Decrease	\$ 6,546.79	from	31130007/PPW003600126227/508026	Inspections
Decrease	\$402,714.03	from	31130007/PPW003600126227/508027	Construction
Decrease	\$ 2,022.12	from	31130007/PPW003600126227/508051	ProgramMgmt
Decrease	\$125,708.94	from	31260001/PPW003000160654/508016	CntrctlDesign
Decrease	\$543,650.30	from	31260001/PPW003000160654/508027	Construction

Decrease	\$ 1,681.27	from	31260001/PPW003000160654/508051	ProgramMgmt
Increase	\$ 81,288.59	to	31130007/PPW002900226226/508016	CntrctlDesign
Increase	\$ 25,000.00	to	31130007/PPW002900226226/508051	ProgramMgmt
Increase	\$105,925.24	to	31130007/PPW002900226226/508027	Construction
Increase	\$467,034.25	to	31130007/PPW002900226227/508027	Construction
Increase	\$627,040.51	to	31260001/PPW002900260654/508027	Construction
Increase	\$ 22,000.00	to	31260001/PPW002900260654/508024	Testing
Increase	\$ 22,000.00	to	31260001/PPW002900260654/508026	Inspections

Mayor John Cook and Representative Presi Ortega, Jr. commented.

Ms. Patricia Adaauto, Deputy City Manager for Building and Planning Services, commented.

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 Motion made by Representative Presi Ortega, Jr., seconded by Representative Lozano and unanimously carried to **APPROVE** budget transfer BT2005-1266 AIRPORT

Transfer of funds to set up appropriations for a project for the reconstruction of Runway 8R-26L.

Increase	\$ 1,000	to	62620031/G620AIP002311512/502205	Legal Notice
Increase	\$ 1,500	to	62620031/G620AIP002311512/502302	Print Shop
Increase	\$ 600	to	62620031/G620AIP002311512/502304	Mailroom
Increase	\$ 1,000,000	to	62620031/G620AIP002311512/508016	Design
Increase	\$ 5,000	to	62620031/G620AIP002311512/508021	CengAdmChg
Increase	\$ 500,000	to	62620031/G620AIP002311512/508024	Testing
Increase	\$ 40,000	to	62620031/G620AIP002311512/508026	Inspections
Increase	\$12,125,000	to	62620031/G620AIP002311512/508027	Construction
Increase	\$ 40,000	to	62620031/G620AIP002311512/508051	Prgm Mgmt
Increase	\$ 5,176,914	to	62620031/G620AIP002311512/407001	Intrfd Trf
Increase	\$ 8,536,186	to	62620031/G620AIP002311512/406000	FedGrntProc
Increase	\$ 5,176,914	to	62620018/P50000241021/407002	FundBalTrf
Increase	\$ 5,176,914	to	62620018/P50000241021/507001	Intrfd Trf

Representative Presi Ortega, Jr. commented.

Mr. Patrick Abeln, Director of Aviation, commented.

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 Motion made by Representative Lilly, seconded by Representative Steve Ortega and unanimously carried to **APPROVE** budget transfer BT2005-1292 BUILDING AND PLANNING SERVICES

Building and Planning Services proposes to transfer \$914,428 within the Upper Valley Road project to realign the budget. There is no increase for the project budget.

Increase	\$643,500	to	14200403/PBE04ST13929155/508000	Land
Decrease	\$529,346	from	14200403/PBE04ST13929155/508016	CntrctlDesign
Increase	\$ 60,676	to	14200403/PBE04ST13929155/508024	Testing
Increase	\$202,252	to	14200403/PBE04ST13929155/508026	Inspections
Decrease	\$385,082	from	14200403/PBE04ST13929155/508027	Construction
Increase	\$ 500	to	14200403/PBE04ST13929155/508022	Administration
Increase	\$ 7,500	from	14200403/PBE04ST13929155/508051	ProgramMngmt

Ms. Patricia Adaauto, Deputy City Manager for Building and Planning Services, commented.

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## RESOLUTION

### BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

**THAT** the Mayor be authorized to sign that certain Rate Agreement by and between the City of El Paso and the El Paso Electric Company to freeze the electric utility rates for a period of five (5) years.

#### **1<sup>ST</sup> MOTION:**

Motion made by Representative Lozano, seconded by Presi Ortega, Jr. and unanimously carried **TO SUSPEND THE RULES OF COUNCIL REGARDING CUT OFF TIME FOR SPEAKERS** to allow additional speakers past 9:00 a.m.

#### **2<sup>ND</sup> MOTION:**

Motion made by Representative Holguin, seconded by Representative Castro and unanimously carried to give Mr. Ray E. Gilbert, Jr. an **ADDITIONAL 10 MINUTES TO SPEAK**.

#### **3<sup>RD</sup> MOTION:**

Motion made by Representative Holguin, seconded by Representative Castro to **POSTPONE FOUR (4) WEEKS** the Resolution that the Mayor be authorized to sign that certain Rate Agreement by and between the City of El Paso and the El Paso Electric Company to freeze the electric utility rates for a period of five (5) years.

And;

An Ordinance granting a franchise to El Paso Electric Company and waiving application procedures.

AYES: Representatives Castro and Holguin

NAYS: Representatives Lilly, Byrd, Lozano, Presi Ortega, Jr., Steve Ortega and O'Rourke

The Motion **FAILED**.

#### **4<sup>TH</sup> AND FINAL MOTION:**

Motion made by Representative Presi Ortega, Jr., seconded by Representative Byrd and carried to **APPROVE, AS AMENDED**, the Resolution that the Mayor be authorized to sign that certain Rate Agreement by and between the City of El Paso and the El Paso Electric Company to freeze the electric utility rates for a period of five (5) years.

AYES: Representatives Lilly, Byrd, Presi Ortega, Jr., Steve Ortega and O'Rourke

NAYS: Representatives Lozano, Castro and Holguin

Mr. Jorge Villegas, Assistant City Attorney, requested the following language be included for the record as per memo dated August 3, 2005:

"The term "Continuing Directors," set forth in Section 14 of the Franchise Ordinance, shall have the same meaning as set forth in El Paso Electric Company's Indenture of Mortgage dated February 1, 1996."

Mayor John Cook and Representatives Byrd, Presi Ortega, Jr., Steve Ortega, Holguin, O'Rourke, Lilly, Castro and Lozano commented.

Mayor John Cook complimented Mayor Pro Tempore O'Rourke for in the inclusion of the following language in the Franchise Agreement and the El Paso Electric Company for compromising on that language:

... "sale of substantially all of the assets or a change in control of the company. A formal assignment to the franchise is required subsequent to merger or acquisition."

Mayor Cook stated that he had directed staff to address Representative O'Rourke's concerns regarding the Franchise Agreement language as a result of the Pre-Council meeting held on Monday, July 11, 2005. Mayor Cook requested Mr. McNabb's explanation regarding the selection of one of the big four accounting firms be included in the Minutes.

Mr. Charlie McNabb, City Attorney, explained that the El Paso Electric Company had not problems with the City utilizing one of the big four accounting firm. He noted that those accounting firms were nationwide and adhered to a Standard of Practice. He explained that two of the big four accounting firms are currently retained by the El Paso Electric Company; however, the agreement between the two parties already is that the City could choose between one of the four. He explained that the City would be choosing between one of the big four accounting firms, at least two of which would not have a conflict by virtue of representation of the El Paso Electric Company, rather than the City being able to pick someone other than that.

Representative Presi Ortega, Jr. requested Ms. Wilson state for the record the countless number of hours that were spent working on the Franchise Agreement by City staff and Council Members.

Representative O'Rourke stated that he did not want the El Paso Electric Company headquarters to go anywhere else besides El Paso, Texas. Additionally, he did not want the upper strata jobs, or any job for that matter, to leave El Paso. He suggested the following language be included in the Franchise Agreement:

"... upon change of control, this Franchise Agreement expires". Representative O'Rourke asked Mr. Gordon whether or not there was a way to get around the change of control language and used the following: two different groups, one group owning 26% of the voting stock and another group owning 25% of the voting stock, take control of the company, and move the headquarters to Tulsa or Dallas.

Representative Steve Ortega asked that Representative O'Rourke's comments be placed in the Minutes for the record. The Mayor agreed to include the remarks in the record.

Ms. Joyce Wilson, City Manager, stated for the record that staff tried to "get where you want to go as close as we can" in terms of the language for Representative O'Rourke. Ms. Wilson explained that the independent firm would determine whether or not it was reasonable or not; at which time, if the independent firm determined it was not reasonable, the City would then be provided an opportunity to find a remedy. She stated the firm hired by the City to perform the independent review firm would advise the City whether or not their O&M expenses are within reason. She noted that that language was inserted as part of the Agreement to address concerns regarding the City making a determination without a third party review. Representative Steve Ortega requested that Ms. Wilson's explanation regarding "who determines reasonability" be included in the Minutes.

Mr. McNabb clarified that ultimately the Council would make the determination regarding reasonability based on the third party's review, so that the reasonableness would not be determined by the consultant that does the review, but by the City Council. Representative Steve Ortega requested that the preceding explanation by Mr. McNabb regarding reasonability be included in the Minutes.

Mr. Hedrick added that he thought the intent of the parties was to have an independent consultant do a review, reach a determination whether or not that consultant, in their professional opinion, believed that the expenses were reasonable.

Representative Steve Ortega stated that the intent of the Agreement needs to be put explicitly in the Agreement.

Mr. Hedrick explained that the Agreement, as it exists today, was to review the Operating Expenses and that the intent of the review was that the rate cap essentially measures the rate of return. He added that the concern of the Council was that while the return might appear reasonable, the expenses might be unreasonable, and therefore unreasonably driving down that return. If the expenses are deemed to be higher than they ought to be that may lead to a rate proceeding.

Mr. Hedrick clarified the language in Section 10 of the Rate Agreement, for the record. He explained that during the last legislative session there was discussion regarding transmission reliability and a request was made and granted by the legislation, whereas if a utility in the State of Texas is required by the Federal Government to make transmission expenditures, then those costs can be passed through the surcharge. He added that the intent of the company, with respect to the Agreement language, is to waive that right.

Ms. Richarda Duffy Momsen, City Clerk, read the revised Resolution language into the record.

The following City staff members commented:

1. Ms. Joyce Wilson, City Manager, explained that Messrs. Bill Studer, Deputy City Manager for Financial and Administrative Services, and Jorge Villegas, Assistant City Attorney, would provide briefings.  
(copies of briefings on file in the City Clerk's Office)
2. Mr. Studer gave a Powerpoint presentation. (on file in the City Clerk's Office)
3. Mr. Villegas provided revised documents to the Council Members and read revised language regarding the Franchise Agreement into the record.  
(copies of revised documents on file in the City Clerk's Office)
4. Mr. Charlie McNabb, City Attorney

The following members of the public commented:

1. Mr. Gary Hedrick, Chief Executive Officer of the El Paso Electric Company, responded to questions and/or comments of the Council Members.
2. Mr. Norman Gordon, outside counsel, read into the record revisions to the Franchise Agreement language and responded to questions and/or comments of the Council Members.
3. Mr. Walt Phillips
4. Mr. Ray E. Gilbert, Jr.

.....  
**ORDINANCE 16090**

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING A FRANCHISE TO EL PASO ELECTRIC COMPANY AND WAIVING APPLICATION PROCEDURES.**

Please see previous item for discussion.

The City Clerk called for further public comment. There was no further public comment.

Motion duly made by Representative Presi Ortega, Jr., seconded by Representative Steve Ortega, that the Ordinance be **ADOPTED, AS AMENDED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Council Members Lilly, Byrd, Presi Ortega, Jr., Steve Ortega and O'Rourke  
NAYS: Council Members Lozano, Castro and Holguin                      Absent:                      None

Whereupon the Mayor ordered that the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED, AS AMENDED**.

## ORDINANCE 16091

The City Clerk read an Ordinance entitled: **AN ORDINANCE CHANGING THE ZONING OF A PORTION OF LOT 4, BLOCK 160, VISTA DEL SOL UNIT 54, EL PASO, EL PASO COUNTY, TEXAS FROM P-I (PLANNED INDUSTRIAL) TO C-3 (COMMERCIAL). THE PENALTY BEING AS PROVIDED IN CHAPTER 20.68 OF THE EL PASO MUNICIPAL CODE.**

Mr. Rudy Valdez, Chief Urban Planner, gave a Powerpoint presentation and noted that the CPC (City Plan Commission) and DCC (Development Coordinating Committee) had recommended approval. He added that there was opposition to the zoning change request and answered questions from and responded to comments made by the Council Members. Mr. Valdez stated for the record that zoning change was a 211.007(d) case and would require seven affirmative votes of the Council.

Mayor John Cook and Representative Steve Ortega commented.

Mr. Harold Davis, attorney representing the applicant, commented.

The City Clerk called for further public comment. There was no further public comment.

Motion duly made by Representative Steve Ortega, seconded by Representative Holguin, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Council Members Lilly, Byrd, Lozano, Castro, Presi Ortega, Jr., Holguin, Steve Ortega and O'Rourke  
NAYS: None                      Absent:              None

Whereupon the Mayor ordered that the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED**.

## ORDINANCE 16092

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING SPECIAL PERMIT NO. ZON 05-00031, TO ALLOW FOR A PLANNED RESIDENTIAL DEVELOPMENT ON LOTS 405, 406, 423 AND 424, SUNRISE ACRES UNIT ONE, EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.14.040 (ZONING) OF THE EL PASO MUNICIPAL CODE. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.68 OF THE EL PASO MUNICIPAL CODE.**

Mr. Rudy Valdez, Chief Urban Planner, gave a Powerpoint presentation and noted that the CPC (City Plan Commission) and DCC (Development Coordinating Committee) had recommended approval. He added that opposition to the zoning change request was made at the City Plan Commission; however, that opposition has since been removed. He answered questions from and responded to comments made by the Council Members and members of the public and stated for the record that the special permit was a 211.007(d) case and would require seven affirmative votes of the Council.

Mayor John Cook and Representatives Byrd and Presi Ortega, Jr., commented.

The following members of the public spoke in opposition to the special permit:

- 1. Ms. Veronica Jackson
- 2. Ms. Charlene Clark

Colonel Jim Smith, representing the applicant, commented.

The City Clerk called for further public comment. There was no further public comment.

Motion duly made by Representative Byrd, seconded by Representative Lozano, that the Ordinance be **ADOPTED AS AMENDED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Council Members Lilly, Byrd, Lozano, Castro, Presi Ortega, Jr., Holguin, Steve Ortega and O'Rourke  
NAYS: None                      Absent:                      None

Whereupon the Mayor ordered that the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED AS AMENDED**.

.....  
**ORDINANCE 16093**

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING SPECIAL PERMIT NO. ZON05-00035, TO ALLOW FOR A FIRE STATION ON LOTS 24 - 28, BLOCK 1, VISTA COMMERCIAL PARK, EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.42.040 (ZONING) OF THE EL PASO MUNICIPAL CODE. THE PENALTY BEING AS PROVIDED IN CHAPTER 20.68 OF THE EL PASO MUNICIPAL CODE.**

Mr. Rudy Valdez, Chief Urban Planner, gave a Powerpoint presentation and noted that the CPC (City Plan Commission) and DCC (Development Coordinating Committee) had recommended approval. He added that there was no opposition to the zoning change request and answered questions from and responded to comments made by the Council Members.

The City Clerk called for public comment. There was no public comment.

Motion duly made by Representative Holguin, seconded by Representative Steve Ortega, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Council Members Lilly, Byrd, Lozano, Castro, Holguin, Steve Ortega and O'Rourke  
NAYS:                      None                      Absent:                      None  
NOT PRESENT FOR THE VOTE: Council Member Presi Ortega, Jr.

Whereupon the Mayor ordered that the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED**.

.....  
\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **POSTPONE TWO (2) WEEKS** an ordinance amending the 2025 Proposed Thoroughfare System as detailed in the Map Atlas of the Plan for El Paso and its related documents as originally approved by El Paso City Council in 1999, and as subsequently amended (within specific 4 parcels recently sold in Public Service Board Northeast Master Plan)  
.....



\*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **POSTPONE TWO (2) WEEKS** an ordinance incorporating applicable portions of the El Paso Water Utilities' Public Service Board Northeast Master Plan as a specific study area plan into the City's comprehensive plan, *The Plan for El Paso*, and which plan shall amend the Plan for El Paso and the year 2025 General Land Use Map incorporated therein.

.....  
**ORDINANCE 16094**

The City Clerk read an Ordinance entitled: **AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A SPECIAL WARRANTY DEED CONVEYING TO EPT LAND ASSETS, L.P., LAND TOTALING APPROXIMATELY 4.69 ACRES OUT OF SECTION 21, BLOCK 81, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, EL PASO, EL PASO COUNTY, TEXAS, LOCATED IN NORTHEAST EL PASO AT MCCOMBS AND PATRIOT FREEWAY.**

Mr. Robert Andron, General Counsel, El Paso Water Utilities Public Service Board, responded to questions of Mayor John Cook.

The City Clerk called for public comment. There was no public comment.

Motion duly made by Representative Castro, seconded by Representative Lozano, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Council Members Lilly, Lozano, Castro, Holguin, Steve Ortega and O'Rourke  
NAYS: None                                      Absent: None  
NOT PRESENT FOR THE VOTE: Council Members Byrd and Presi Ortega, Jr.

Whereupon the Mayor ordered that the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED**.

.....  
**ORDINANCE 16095**

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING A SPECIAL PRIVILEGE TO KERN PLACE MERCHANTS ASSOCIATION TO TEMPORARILY CLOSE A PORTION OF CINCINNATI AVENUE BETWEEN MESA STREET AND STANTON STREET FOR "CINCINNATI STREET MUSIC FESTIVAL" ON SATURDAY, JULY 30, 2005 AND SUNDAY, JULY 31, 2005.**

Mr. Rudy Valdez, Chief Urban Planner, gave a Powerpoint presentation and noted that DCC (Development Coordinating Committee) had recommended approval. He noted that traffic control, policing the event, litter control and previously imposed requirements have been addressed in the special privilege license.

Mayor John Cook and Representative Lilly commented.

The City Clerk called for public comment. There was no public comment.

Motion duly made by Representative Lilly, seconded by Representative Lozano, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Council Members Lilly, Byrd, Lozano, Castro, Steve Ortega and O'Rourke  
NAYS: None                                      Absent: None

NOT PRESENT FOR THE VOTE: Council Members Presi Ortega, Jr. and Holguin

Whereupon the Mayor ordered that the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED**.

.....  
**NO ACTION WAS TAKEN** regarding the City Manager’s report of current events and issues:

- 1. Financial Briefing with Council Members
- 2. Plaza Theatre Debt
- 3. Sun Metro Debt

The following City staff members commented:

- 1. Ms. Joyce Wilson, City Manager
- 2. Mr. Bill Studer, Deputy City Manager for Financial and Administrative Services, commented on the above listed items.

.....  
Motion made by Representative O’Rourke, seconded by Representative Holguin and unanimously carried to **MOVE TO THE REGULAR AGENDA** the following Resolution:

Mayor John Cook commented.

Mr. Patrick Abeln, Director of Aviation, commented.

Ms. Lisa Turner, citizen, commented.

Motion made by Steve Ortega, seconded by Representative Lilly and unanimously carried to **APPROVE** the Resolution.

**RESOLUTION**

**WHEREAS**, on March 1, 2005, the City of El Paso awarded Bid No. 2005-071 to Dan Williams Company (hereafter “Contractor”) for the construction of a project known as EPIA Pavement Rehabilitation; and

**WHEREAS**, a Notice to Proceed was effective April 4, 2005; and

**WHEREAS**, on June 29, 2005, Contractor informed the City of El Paso, through correspondence to Paragon Project Resources, that a delay was necessary due to its inability to secure materials; and

**WHEREAS**, the Director of Aviation has determined that delays up to date and any further delays of this project will detrimentally affect Airport operations; and

**WHEREAS**, in accordance with contract provision 6.9.2, the City may terminate the contract in question at will and without cause by giving seven (7) days written notice to the Contractor, with no liability incurred for said termination of work,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:**

1. The City Manager or her designee is authorized to notify Dan Williams Company that the City is terminating the remaining work under Bid No. 2005-071, awarded to Dan Williams Company for the construction of a project known as EPIA Pavement Rehabilitation Project. Termination of the contract shall be pursuant to the City's right to terminate the work at will and without cause as enumerated in 6.9.2 of the contract documents. Contractor shall complete the work under the current phase of construction (Phase IV of the original scope of work), whereupon termination of the contract shall become immediately effective. Should Phase IV construction be completed before July 19, 2005, Contractor shall not commence work on any additional phases of construction.
2. The City Manager or her designee is authorized to execute any appropriate documents in fulfillment of this contract termination.
3. The Contractor shall be provided with a copy of this resolution, which shall serve as written notice of the City's intent to terminate Bid No. 2005-071.

.....  
 \*Motion made by Representative O'Rourke, seconded by Representative Holguin and unanimously carried to **POSTPONE ONE (1) WEEK** *City of El Paso and Joseph Wardy Mayor of the City of El Paso v. The Housing Authority of the City of El Paso*; No. 08-05-00083-CV in the Eighth Court of Appeals (551.071)  
 .....

Motion made by Representative Steve Ortega, seconded by Representative Castro and unanimously carried to **ADJOURN** this meeting at 1:36 p.m.  
 .....

APPROVED AS TO CONTENT:

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Richarda Duffy Momsen, City Clerk